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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/057,346	01/28/2002	Beverly Richard		1507

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KENNETH D. BAUGH
2413 Blodgett
Houston, TX 77004

EXAMINER

WATKINS III, WILLIAM P

ART UNIT	PAPER NUMBER
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1772

DATE MAILED: 01/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/057,346

Applicant(s)

RICHARD, BEVERLY

Examiner

William P. Watkins III

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

1. The use of the trademark Betadine has been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

"Bentadine" should be capitalized in the specification.

2. Claim 8, 9, and 12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

"Paper-like" in claims 8 and 9 is indefinite because it is not clear from the specification what qualities of paper the sheet must have to be paper-like. The trademark Betadine is improper in claim 12 as it indicates a source of goods and not a specific material. The 112 rejections of claims 2, 3 and 6 are withdrawn in view of applicant's amendment.

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3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over McAtee et al. (U.S. 6,280,757).

The reference teaches two outer layers, which maybe made of paper fibers and an internal patterned adhesive layer with a cleaning substance in the pattern of the adhesive (Figures 4 and 5 and the abstract). More than two plies may also be used with any or all of the plies being apertured (col. 6, lines 50-60). The cleaning substance may be added onto or impregnated into any or all of the surfaces of the different layers, either before or after they are joined (col. 30, lines 45-60). A biocide may be an optional ingredient (col. 30, lines 10-30). The instant invention claims a three layer structure with an antibacterial agent. It would have been obvious to one of ordinary skill in the art to add a bacterial agent from the options given in the reference in order to enhance they hygiene of the tissue.

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5. Applicant's arguments filed 14 October 2003 have been fully considered but they are not persuasive.

The examiner apologizes for the failure to explicitly address claims 7-12 in the first office action. The rejections of record were intended to have been applied to these claims and have been formally applied to these claims as noted above. The rejection above has been modified to more clearly state range of structure taught by the reference. Regarding claim 1 applicant argues that there is no teaching of an upper planar member in McAtee et al. The examiner disagrees. Figure 5A shows an upper member that is substantially planar before the wetting of the cleaning article. Applicant also argues that there is no teaching of an intermediate apertured absorbent article and no teaching of an antibacterial layer on top of the intermediate layer and no teaching of a bottom layer. As noted in the modified rejection, there may be more than two paper fiber layers with any of the layers being apertured and the lathering soap may be put onto any of the layers. This broad teaching clearly teaches and allows the option of a three layer laminate with the middle layer being apertured and the soap layer being on the intermediate layer (read on by instant claim 1), as well as the preferred embodiment of McAtee of a two layer laminate (read on

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by instant claim 7) with the soap being impregnated in or forming a layer on the top surface of the optional intermediate or bottom layer. Regarding claims 2 and 3 applicant argues that there is no thin ply with apertures. The examiner takes all of the layers of McAtee as being considered "thin" and as noted above any of them may be apertured. Regarding claim 4, 5 and 6 the lathering layer or impregnate of McAtee is moisture activated (col. 4, lines 10-15) and can be considered as an antibacterial agent as are all soaps since they function in cleaning to remove bacteria. There is a further teaching, as noted in the above rejection, of a biocide, which can be considered as a further antibacterial agent. It is simply not clear to the examiner how the structure and function of the various possible embodiments of McAtee et al. differ from the instant claimed structure and function as argued by applicant.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to William P. Watkins III whose telephone number is 571-272-1503. The examiner works an increased flex time schedule, but can normally be reached Monday through Friday, 11:30 A.M. through 8:00 P.M. Eastern Time. The examiner returns all calls within one business day unless an extended absence is noted on his voice mail greeting.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 703-308-4251. The fax phone numbers for the

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organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0651.

A handwritten signature in cursive script, reading "William P. Watkins III", followed by a stylized flourish.

WW/ww
December 29, 2003

WILLIAM P. WATKINS III
PRIMARY EXAMINER